

MAY 15 2006



PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/706,322
		Filing Date	November 3, 2000
		First Named Inventor	Benjamin D. PLESS
		Art Unit	3762
		Examiner Name	S. Getzow
Total Number of Pages in This Submission	10	Attorney Docket Number	459992800200 (N11-00)

**ENCLOSURES (Check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form + duplicate copy for fee processing - 2 pages  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment/Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Reply to Missing Parts/Incomplete Application  <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input checked="" type="checkbox"/> Petition - 2 pages  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____  <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  Statement to Support Petition to Revive Unintentionally Abandoned Application - 2 pages Part B- Fee(s) Transmittal + duplicate copy for fee processing - 2 pages Notification of Loss of Entitlement to Small Entity Status - 1 page Return Receipt Postcard
Remarks		

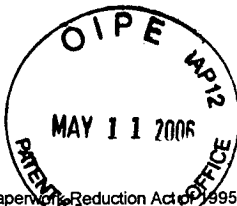
**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	MORRISON & FOERSTER LLP (Customer No. 25226)		
Signature			
Printed name	Mika Mayer		
Date	May 11, 2006	Reg. No.	47,777

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 534439320 US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: May 11, 2006

Signature: (Georgina Matos)



**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
45999-28002.00 (N11-00)

First named inventor: Benjamin D. PLESS

Application No: 09/706,322

Art Unit: 3762

Filed: November 3, 2000

Examiner: S. Getzow

Title: PREDICTING SUSCEPTIBILITY TO NEUROLOGICAL DYSFUNCTION BASED ON  
MEASURED NEURAL ELECTROPHYSIOLOGY

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or  
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration  
date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity – fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status.  
See 37 CFR 1.27.

☒ Other than small entity – fee \$ 1,500.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in  
the form of \_\_\_\_\_ (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 1,400.00

- ☐ has been paid previously on \_\_\_\_\_
- ☒ is enclosed herewith.

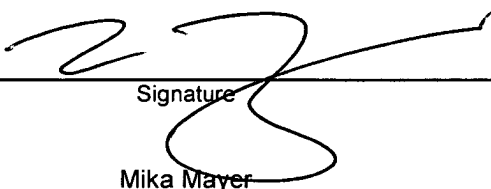
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. STATEMENT: A statement in support of this petition is attached herewith.

  
 \_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Mika Mayer  
 \_\_\_\_\_  
 Typed or printed name

\_\_\_\_\_  
 May 11, 2006  
 \_\_\_\_\_  
 Date  
 \_\_\_\_\_  
 47,777  
 \_\_\_\_\_  
 Registration Number, if applicable

MORRISON & FOERSTER LLP  
 755 Page Mill Road  
 Palo Alto, California 94304-1018  
 \_\_\_\_\_  
 Address

\_\_\_\_\_  
 (650) 813-4298  
 \_\_\_\_\_  
 Telephone Number

## Enclosures:

☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay - 2 pages

☒ Transmittal (1 page); Fee Transmittal + duplicate copy for fee processing (2 pages); Petition for Revival (2 pages); Part B- Fee(s) Transmittal + duplicate copy for fee processing (2 pages); Notification of Loss of

☐ Other: Entitlement to Small Entity Status (1 page); Return Receipt Postcard

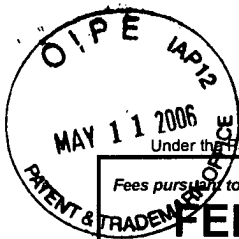
Page 2 of 2

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Dated: May 11, 2006

Signature: 

(Georgina Matos)

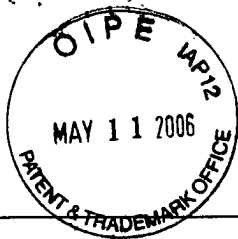


Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).		<b>Complete if Known</b>	
<b>FEE TRANSMITTAL</b> <b>For FY 2006</b>		Application Number	09/706,322
		Filing Date	November 3, 2000
		First Named Inventor	Benjamin D. PLESS
		Examiner Name	S. Getzow
		Art Unit	3762
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	459992800200 (N11-00)
<b>TOTAL AMOUNT OF PAYMENT</b>		<b>(\$)</b>	1,500.00

<b>METHOD OF PAYMENT</b> (check all that apply)	
<input type="checkbox"/> Check	<input type="checkbox"/> Credit Card
<input type="checkbox"/> Money Order	<input type="checkbox"/> None
<input type="checkbox"/> Other (please identify): _____	
<input checked="" type="checkbox"/> Deposit Account	Deposit Account Number: <u>03-1952</u> Deposit Account Name: <u>Morrison &amp; Foerster LLP</u>
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)	
<input checked="" type="checkbox"/> Charge fee(s) indicated below	<input type="checkbox"/> Charge fee(s) indicated below, <b>except for the filing fee</b>
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17	<input checked="" type="checkbox"/> Credit any overpayments

<b>FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)</b>							
<b>1. BASIC FILING, SEARCH, AND EXAMINATION FEES</b>							
	<b>FILING FEES</b>		<b>SEARCH FEES</b>		<b>EXAMINATION FEES</b>		
		<u>Small Entity</u>		<u>Small Entity</u>		<u>Small Entity</u>	
<b>Application Type</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fee (\$)</b>	<b>Fees Paid (\$)</b>
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	
<b>2. EXCESS CLAIM FEES</b>							
						<b>Small Entity</b>	
						<b>Fee (\$)</b>	<b>Fee (\$)</b>
Each claim over 20 (including Reissues)						50	25
Each independent claim over 3 (including Reissues)						200	100
Multiple dependent claims						360	180
<b>Total Claims</b>		<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>	<b>Multiple Dependent Claims</b>		
_____		_____	_____	_____	<b>Fee (\$)</b>		<b>Fee Paid (\$)</b>
_____		_____	_____	_____	_____		_____
HP = highest number of total claims paid for, if greater than 20.							
<b>Indep. Claims</b>		<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>			
_____		_____	_____	_____			
_____		_____	_____	_____			
HP = highest number of independent claims paid for, if greater than 3.							
<b>3. APPLICATION SIZE FEE</b>							
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).							
<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>			<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>	
_____	_____	_____ / 50 _____ (round up to a whole number) x _____			_____	_____	
<b>4. OTHER FEE(S)</b>							<b>Fees Paid (\$)</b>
Non-English Specification, \$130 fee (no small entity discount)							
Other (e.g., late filing surcharge): 1453 Petition to revive unintentionally abandoned...							1,500.00

<b>SUBMITTED BY</b>			
Signature		Registration No. (Attorney/Agent)	47,777
Name (Print/Type)	Mika Mayer	Telephone	(650) 813-4298
		Date	May 11, 2006



PATENT  
Docket No. 45999-28002.00 (N11-00)

**CERTIFICATE OF MAILING BY EXPRESS MAIL**

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Dated: May 11, 2006

Signature: Georgina Matos (Georgina Matos)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: Benjamin D. PLESS

Application No.: 09/706,322

Filing Date: November 3, 2000

Title: PREDICTING SUSCEPTIBILITY TO  
NEUROLOGICAL DYSFUNCTION  
BASED ON MEASURED NEURAL  
ELECTROPHYSIOLOGY

Examiner: Scott M. Getzow

Art Unit: 3762

**STATEMENT TO SUPPORT PETITION TO REVIVE UNINTENTIONALLY  
ABANDONED APPLICATION**

MS Petition  
P.O. Box 1450  
Alexandria, VA 22313-1450

I, Benjamin D. Pless, state the following:

1. I am the Chief Operating Officer, Chief Technical Officer and a Board Member of NeuroPace, Inc., the company to which this application has been, or will be assigned. I am also a named inventor on the above-referenced application.
2. NeuroPace, Inc. employed an in-house patent attorney to manage our patent portfolio. His responsibilities included overseeing prosecution, or directly prosecuting, our patent matters. Our in-house patent attorney was responsible for directly prosecuting the above-referenced application.
3. It has just recently come to my attention that the above-referenced application was abandoned due to a failure to prosecute the application. This fact came to light after our in-house patent

attorney departed, and our patent files were audited by outside patent counsel not associated with the prosecution of the above-referenced application.

4. The failure to prosecute the above-referenced application was clearly unintentional. I, and NeuroPace, Inc., intended that all actions associated with the above-referenced application would be timely taken, and that all fees due would be timely paid.

5. Because I, and NeuroPace, Inc., in no way intended to abandon the above-referenced application, or otherwise allow it to lapse, I have asked our outside patent counsel to take all steps necessary to revive it.

6. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application, any patent issuing thereon, or any patent to which this verified statement is directed.

By: Benjamin D. Pless

Signature: B. D. Pless

Date: 5-10-06

## PART B - FEE(S) TRANSMITTAL

DUPLICATE COPY

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 or Fax (703) 746-4000

FOR FEE PROCESSING

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notification.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

26876 7590 05/06/2005

NEUROPACE, INC.  
 1375 SHOREBIRD WAY  
 MOUNTAIN VIEW, CA 94043

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: EV 534439320 US

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated below and is addressed to: MS Petition, Commissioner for Patent, P.O. Box 1450, Alexandria, VA 22313-1450.

Georgina Matos (Depositor's name)  
 Georgina Matos (Signature)  
 May 11, 2006 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,322	11/03/2000	Benjamin D. Pless	N11-00	6559

TITLE OF INVENTION: PREDICTING SUSCEPTIBILITY TO NEUROLOGICAL DYSFUNCTION BASED ON MEASURED NEURAL ELECTROPHYSIOLOGY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES <del>NO</del>	<del>\$700</del> 1400	\$0	<del>\$700</del> 1400	08/08/2005
EXAMINER	ART UNIT	CLASS-SU BCLASS			
GETZOW, SCOTT M	3762	607-045000			

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 03-1952 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☒ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

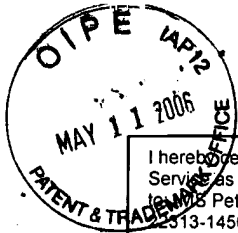
Date

Typed or printed name

Registration No.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Dated: May 11, 2006 Signature: \_\_\_\_\_

(Georgina Matos)

Docket No.: 459992800200 (N11-00)  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Benjamin D. PLESS

Application No.: 09/706,322

Confirmation No.: 6559

Filing Date: November 3, 2000

Art Unit: 3762

For: PREDICTING SUSCEPTIBILITY TO  
NEUROLOGICAL DYSFUNCTION BASED  
ON MEASURED NEURAL  
ELECTROPHYSIOLOGY

Examiner: S. Getzow

**NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 C.F.R. § 1.27(g)(2), notice is hereby given that the Applicant of the above-captioned application wishes to claim Large Entity Status for this application. This notification is made prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which the status was appropriate.

Dated: May 11, 2006

Respectfully submitted,

By \_\_\_\_\_  
Mika Mayer

Registration No.: 47,777  
MORRISON & FOERSTER LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
(650) 813-4298